

7385b of this title against a beryllium vendor or atomic weapons employer.

(e) Workers' compensation

This section does not apply to an administrative or judicial proceeding under a State or Federal workers' compensation law.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3645], Oct. 30, 2000, 114 Stat. 1654, 1654A-510; Pub. L. 107-107, div. C, title XXXI, §3151(a)(5), Dec. 28, 2001, 115 Stat. 1374.)

AMENDMENTS

2001—Subsecs. (a) to (d). Pub. L. 107-107 amended headings and text of subsecs. (a) to (d) generally, substituting present provisions for provisions relating to election to file suit in subsec. (a), applicable time limits in subsec. (b), dismissal of claims in subsec. (c), and dismissal of pending suit in subsec. (d).

§ 7385e. Certification of treatment of payments under other laws

Compensation or benefits provided to an individual under this subchapter—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31 or the amount of such benefits.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3646], Oct. 30, 2000, 114 Stat. 1654, 1654A-510; Pub. L. 108-375, div. C, title XXXI, §3162(e), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Pub. L. 108-375 substituted “this subchapter” for “part B”.

§ 7385f. Claims not assignable or transferable; choice of remedies

(a) Claims not assignable or transferable

No claim cognizable under this subchapter shall be assignable or transferable.

(b) Choice of remedies

No individual may receive more than one payment of compensation under part B.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3647], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 108-375, div. C, title XXXI, §3162(f), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 substituted “this subchapter” for “part B”.

§ 7385g. Attorney fees

(a) General rule

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual for payment of lump-sum compensation under part B, more than that percentage specified in subsection (b) of this section of a payment made under part B on such claim.

(b) Applicable percentage limitations

The percentage referred to in subsection (a) of this section is—

(1) 2 percent for the filing of an initial claim for payment of lump-sum compensation; and

(2) 10 percent with respect to objections to a recommended decision denying payment of lump-sum compensation.

(c) Inapplicability to other services

This section shall not apply with respect to services rendered that are not in connection with such a claim for payment of lump-sum compensation.

(d) Penalty

Any such representative who violates this section shall be fined not more than \$5,000.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3648], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 107-107, div. C, title XXXI, §3151(a)(6), Dec. 28, 2001, 115 Stat. 1375.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, §3151(a)(6)(A), inserted “for payment of lump-sum compensation” after “the claim of an individual”.

Subsec. (b)(1). Pub. L. 107-107, §3151(a)(6)(B), inserted “for payment of lump-sum compensation” after “initial claim”.

Subsec. (b)(2). Pub. L. 107-107, §3151(a)(6)(C), substituted “with respect to objections to a recommended decision denying payment of lump-sum compensation” for “with respect to any claim with respect to which a representative has made a contract for services before October 30, 2000”.

Subsecs. (c), (d). Pub. L. 107-107, §3151(a)(6)(D), (E), added subsec. (c) and redesignated former subsec. (c) as (d).

§ 7385h. Certain claims not affected by awards of damages

A payment under this subchapter shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this subchapter shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3649], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 108-375, div. C, title XXXI, §3162(g), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Pub. L. 108-375 substituted “this subchapter” for “part B” in two places.

§ 7385i. Forfeiture of benefits by convicted felons

(a) Forfeiture of compensation

Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this subchapter or under any other Federal or State workers' compensation law, shall forfeit (as of the date of such conviction) any entitlement to any compensation or benefit under this subchapter such individual would otherwise be awarded for any injury, illness or death covered

by this subchapter for which the time of injury was on or before the date of the conviction.

(b) Information

Notwithstanding section 552a of title 5, or any other Federal or State law, an agency of the United States, a State, or a political subdivision of a State shall make available to the President, upon written request from the President and if the President requires the information to carry out this section, the names and Social Security account numbers of individuals confined, for conviction of a felony, in a jail, prison, or other penal institution or correctional facility under the jurisdiction of that agency.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3650], Oct. 30, 2000, 114 Stat. 1654, 1654A-511; Pub. L. 108-375, div. C, title XXXI, §3162(h), Oct. 28, 2004, 118 Stat. 2186.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-375 substituted “this subchapter” for “part B” wherever appearing.

§ 7385j. Coordination with other Federal radiation compensation laws

Except in accordance with section 7384u of this title, an individual may not receive compensation or benefits under the compensation program for cancer and also receive compensation under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) or section 1112(c) of title 38.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3651], Oct. 30, 2000, 114 Stat. 1654, 1654A-512.)

REFERENCES IN TEXT

The Radiation Exposure Compensation Act, referred to in text, is Pub. L. 101-426, Oct. 15, 1990, 104 Stat. 920, as amended, which is set out as a note under section 2210 of this title.

§ 7385j-1. Social Security earnings information

Notwithstanding the provision of section 552a of title 5 or any other provision of Federal or State law, the Social Security Administration shall make available to the Secretary of Labor, upon written request, the Social Security earnings information of living or deceased employees who may have sustained an illness that is the subject of a claim under this subchapter, which the Secretary of Labor may require to carry out the provisions of this subchapter.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3652], as added Pub. L. 108-375, div. C, title XXXI, §3163(b), Oct. 28, 2004, 118 Stat. 2187.)

§ 7385j-2. Recovery and waiver of overpayments

(a) In general

When an overpayment has been made to an individual under this subchapter because of an error of fact or law, recovery shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the recovery is completed, recovery shall be made by decreasing later benefits payable under this subchapter with respect to the individual's death.

(b) Waiver

Recovery by the United States under this section may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) Liability

A certifying or disbursing official is not liable for an amount certified or paid by him when recovery of the amount is waived under subsection (b) of this section, or when recovery under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3653], as added Pub. L. 108-375, div. C, title XXXI, §3163(c), Oct. 28, 2004, 118 Stat. 2187.)

PART D—ASSISTANCE IN STATE WORKERS' COMPENSATION PROCEEDINGS

§ 7385o. Repealed. Pub. L. 108-375, div. C, title XXXI, §3162(i), Oct. 28, 2004, 118 Stat. 2186

Section, Pub. L. 106-398, §1 [div. C, title XXXVI, §3661], Oct. 30, 2000, 114 Stat. 1654, 1654A-512, authorized Secretary of Energy to enter agreements with States to provide assistance to Department of Energy contractor employees in filing claims under the appropriate State workers' compensation system.

PART E—CONTRACTOR EMPLOYEE COMPENSATION

§ 7385s. Definitions

In this part:

(1) The term “covered DOE contractor employee” means any Department of Energy contractor employee determined under section 7385s-4 of this title to have contracted a covered illness through exposure at a Department of Energy facility.

(2) The term “covered illness” means an illness or death resulting from exposure to a toxic substance.

(3) The term “Secretary” means the Secretary of Labor.

(Pub. L. 106-398, §1 [div. C, title XXXVI, §3671], as added Pub. L. 108-375, div. C, title XXXI, §3161, Oct. 28, 2004, 118 Stat. 2178.)

§ 7385s-1. Compensation to be provided

Subject to the other provisions of this part:

(1) Contractor employees

A covered DOE contractor employee shall receive contractor employee compensation under this part in accordance with section 7385s-2 of this title.

(2) Survivors

After the death of a covered DOE contractor employee, compensation referred to in paragraph (1) shall not be paid. Instead, the survivor of that employee shall receive compensation as follows:

(A) Except as provided in subparagraph (B), the survivor of that employee shall receive contractor employee compensation under this part in accordance with section 7385s-3 of this title.